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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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09/501,876 02/10/00 SOWLE

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023552
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MINNEAPOLIS MN 55402-0903

HM12/0326

EXAMINER

HARRISON, R

ART UNIT

PAPER NUMBER

1619
DATE MAILED:

03/26/01

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

Office Action Summary

Application No.
09/501,876

Applicant(s)
Sowle et al

Examiner
Robert H. Harrison

Group Art Unit
1619



- ☐ Responsive to communication(s) filed on _____.
- ☐ This action is **FINAL**.
- ☐ Since this application is in condition for allowance except for formal matters, **prosecution as to the merits is closed** in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire three month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

Disposition of Claims

- ☒ Claim(s) 1-51 is/are pending in the application.
- Of the above, claim(s) _____ is/are withdrawn from consideration.
- ☐ Claim(s) _____ is/are allowed.
- ☒ Claim(s) 1-51 is/are rejected.
- ☐ Claim(s) _____ is/are objected to.
- ☐ Claims _____ are subject to restriction or election requirement.

Application Papers

- ☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.
- ☐ The drawing(s) filed on _____ is/are objected to by the Examiner.
- ☐ The proposed drawing correction, filed on _____ is ☐ approved ☐ disapproved.
- ☐ The specification is objected to by the Examiner.
- ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

- ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).
- ☐ All ☐ Some* ☐ None of the CERTIFIED copies of the priority documents have been
- ☐ received.
- ☐ received in Application No. (Series Code/Serial Number) _____.
- ☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

*Certified copies not received: _____.

- ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Attachment(s)

- ☒ Notice of References Cited, PTO-892
- ☒ Information Disclosure Statement(s), PTO-1449, Paper No(s). 3,4 & 6
- ☐ Interview Summary, PTO-413
- ☐ Notice of Draftsperson's Patent Drawing Review, PTO-948
- ☐ Notice of Informal Patent Application, PTO-152

--- SEE OFFICE ACTION ON THE FOLLOWING PAGES ---

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The Group and/or Art Unit location of your application in the PTO has changed. To aid in correlating any papers for this application, all further correspondence regarding this application should be directed to Group Art Unit 1619.

The lengthy specification has not been checked to the extent necessary to determine the presence of all possible minor errors. Applicant's cooperation is requested in correcting any errors of which applicant may become aware in the specification.

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1-51 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 1, line 1, "an" ((second occurrence) is misplaced. Is this "a" ? Also, "per each part of dye" is vague. Is this "per each part by weight of dye?

"The dye" lack clear antecedent basis. Are applicants' referring to said (stable) sources of dye? In claim 2, "the dye" lacks clear antecedent basis in claim 1. See also claim 7.

and 30
In claims 8, "ware" is indefinite and the specification does not define but merely exemplifies.

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What is the amount of chlorine source dye source necessary to achieve the invention? The claim 1 now merely requires a ratio of chlorine source to dye source such that ^{if} ~~is~~ the dye source is negligible (ppb) then the chlorine source is, too!

In claim 9, line 2, "powdered concentrate" lacks clear antecedent basis in the same claim. Same claim, line 5, "is has" is confusing. "1 to 90 wt %" is indefinite absent an indication on what it is based powdered concentrate, particulate composition, etc.

In claim 10, "source of halogen" lacks clear antecedent basis in claim 9. Is this "said encapsulated source of halogen"?

In claims 13, 14, 23, 39, 40 "the indicator" lacks clear antecedent basis in claims 9, 19 and 30.

In claims 16, 26 "the acid salt" lacks antecedent basis in claims 9, and 19. The same applies for "builder salt" in claim 17, and 27. "The source of halogen" (claim 20) lacks clear antecedent basis in claim 19.

In claim 28, "in the concentrate" lacks clear antecedent basis in claim 19.

In claim 19, "aqueous solution", third from last line, "solution", last line each lack clear antecedent basis in the same claim.

In claim 32, "hypochlor⁺ite sanitizer" lacks clear antecedent basis in claim 30 or 31.

In claim 42, "major portion" is vague since it is unclear as to the point of reference. Also, the wt. % are vague as to what they are based; is it the powdered solid?

Claim 44 is confusing. "Acid salt" (claim 46) lacks clear antecedent basis in claim 42.

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In claim 51, "or mixtures thereof" should read "and mixtures thereof".

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

Claims 1-51 are rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Gladfelter et al. ('653).

Gladfelter et al. discloses chlorinated solid rinse aids which contain an encapsulated halogen bleach entirely within the scope of the instant claims wherein such bleach is encapsulated

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with materials such as builders as recited in the instant claims and furthermore can contain dye.
Please see Example 13 at column 18 and Example 19 at column 20. Please ^{note} ^a not that the
compositions appear to be acidic in pH and thus would inherently achieve any recited properties
in the instant claims. Please note that the rinse aid would inherently clean hard surfaces and could
be used as indicated by patentees which includes hand washing with or without mechanical action.
Applicants' recited parameters of wash time, ranges of the materials as well as property
characteristics would either be inherent or would be within the gambit of the skilled artisan since it
would involve mere invocation of routine experimentation absent evidence to the contrary

Claims 9-29, 50 and 51 are rejected under 35 U.S.C. 103(a) as being unpatentable over
GB 1,041,593.

GB 1,041,593 or '593 discloses water diluted, powdered toilet bowl cleaners containing a
dye, builders, acid salts and protectively coated chlorine source see page 2, lines 40 et seq. page
3, lines 104-127 and page 6, lines 50-58 and claim 1. '593 fails to mention the particular amounts
as instantly claimed. It would have been obvious to one having ordinary skill in the art at the time
the invention was made to select the claimed amounts motivated by a reasonable expectation of
successfully deriving solid surface (toilet bowl) disinfectant.

Any inquiry concerning this communication should be directed to Robert Harrison at
telephone number (703) 308-2422.

Harrison:mv

March 21, 2001

Robert H. Harrison
ROBERT H. HARRISON
PRIMARY EXAMINER
Group 1619